THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.22575 of 2005

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Dated: 19.10.2005

Between:

Addanki Lakshmana Murthy

S/o.Late Chalapathi Rao, aged about 68 years,

Occ:Agriculture, resident of 3-223,

Jaladangi street, Yanam-533 464, and others.

..... PETITIONER

AND

The Government of Andhra Pradesh,

Revenue (LA) Dept.,

Secretariat Buildings, Hyderabad,

Rep. by its Spl.Chief Secretary, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.22575 of 2005

ORDER:

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The petitioners are owners of land in Survey No.111/1 of Sunkarapalem Village, Talarevu Mandal, East Godavari District. The Government of Andhra Pradesh proposed to acquire an extent of land in Acs.55.47 for a public purpose of construction of Summer Storage Tank for the use of Pondicherry Government. Accordingly, the first respondent issued notification under Section 4(1) of the Land Acquisition Act (for short 'the Act'), dated 16.09.2005, which was published in Hindu on 24.09.2005. The first petitioner owns an extent of Ac.1.00 and petitioners 2 and 5 own Ac.1.00, whereas petitioners 3 and 4 purchased an extent of 198 square yards in 2005 in Survey No.111/1. Aggrieved by the notification under Section 4(1) of the Act, they filed the present Writ Petition challenging the notification under Section

4(1) of the Act as well as declaration under Section 6(1) of the Act. As can be seen from the impugned notifications, the land is sought to be acquired for construction of Summer Storage Tank at Sunkarapalem Village for the use of Pondicherry Government at Yanam.

The learned Counsel for the petitioners, Sri O.Manohar Reddy, submits that when the land is acquired for the use of Pondicherry Government, the State of Andhra Pradesh is not the appropriate Government within the meaning of Section 3(ee) of the Act. Secondly, he would urge that acquisition of the land by the Government of Andhra Pradesh for the Government of Pondicherry cannot be treated as public purpose and there was no material before the first respondent to come to conclusion that there was need for acquisition of the land. Thirdly, it is the contention of the learned Counsel that enquiry under Section 5-A of the Act was dispensed with in mechanical routine manner without any application of mind. **Per contra,** opposing the writ petititon, the learned Government Pleader for Land Acquisition submits that the Summer Storage Tank is being constructed in Sunkarapalem Village of Talarevu Mandal, East Godavari District, and therefore, it is only the Government of Andhra Pradesh, which is the appropriate Government. He would also contend that acquisition of land for construction of Summer Storage Tank to augment water supply, is certainly a public purpose, and merely because the Summer Storage Tank is being constructed for the Government of Pondicherry at Yanam, the impugned notification cannot be held illegal. He also brought to the notice of this Court the order of this Court in W.P.No.21976 of 2005, dated 07.10.2005, where this Court considered the various contentions raised, and rejected the same. This Court only directed the Revenue Divisional Officer, the third respondent herein, to consider the representation of the landowners.

A perusal of G.O.Ms.No.1638, dated 09.09.2005, issued by the first respondent would show that on a request made by the Government of Pondicherry to acquire the land in border limits of Andhra Pradesh to augment water supply system for the people of Yanam, the District Collector, East Godavari District, submitted proposals for acquisition of land at Sunkarapalem Village. The acquisition is for construction of Summer Storage Tank at Sunkarapalem Village. The Government having accepted the proposal approved the draft notification under Section 4(1) of the Act and directed the District Collector to publish in local Andhra Pradesh Gazette. The acquisition is subject to the condition that the entire amount of the acquisition shall be borne by the Government of Pondicherry. This would show that the land to be acquired is within the State of Andhra Pradesh, though the requisitioning authority is the Government of Pondicherry. Therefore, acquisition for construction of Summer Storage Tank is a public purpose and it is only the Government of Andhra Pradesh, which is the appropriate Government for acquiring the land, as the land is situated within the State of Andhra Pradesh. Merely because the requisitioning authority is the Government of Pondicherry, by no stretch of imagination, it can be said – as contended by the learned Counsel for the petitioners – it is the Central Government, which is the appropriate Government. Whenever, the land is acquired for any requisitioning authority, in this case the Government of Pondicherry, the Government of Andhra Pradesh alone is competent to issue a notification, and Government of

Pondicherry on their own cannot acquire the land within the territory of the State of Andhra Pradesh, as it would amount to exercise of extra territorial jurisdiction by the Government of Pondicherry. Therefore, the submission cannot be accepted.

In W.P.No.21976 of 2005, this Court rejected the submission that acquisition for Government of Pondicherry is not a public purpose, observing as under.

> There cannot be any denial of the historical fact that most of the residents in Yanam town are Telugu speaking people, and when the Government of Pondicherry takes up a project to augment the water supply to those people, there cannot be any objection for the Government of Andhra Pradesh to acquire the land. Further, a reading of Section 3(ee) of the Act and Section 3(f) of the Act define the terms "appropriate Government" and "public purpose" respectively, would show that any project taken by the Central Government or State Government falls within the definition of expression "public purpose", which is an "inclusive" definition. As per the provisions in Part VIII of the Constitution of India, the administration of Union Territory is entrusted to Central Government, and therefore, though the Government of Pondicherry sent requisition, in effect the acquisition shall have to be deemed as an acquisition for Central Government.

A careful reading of the notification under Section 4(1) of the Act, would show that "construction of Summer Storage Tank at Sunkarapalem" for the use of Pondicherry Government, is the main purpose. Essentially, the acquisition is for construction of water tank and whether it is for the use of the local body or the Government of Pondicherry, is immaterial for the purpose of the Act. Insofar as the submission that there was no material before the first respondent to come to the conclusion that the land is required for public purpose, the submission is devoid of merit. A reading of G.O.Ms.No.1638, dated 09.09.2005, belie that there was no material before the first respondent. The Government considered the letter from the Chief Secretary to Government of Pondicherry, the report of the District Collector, East Godavari District, and then only took a decision in the matter. There was therefore, material before the Government before ordering the acquisition.

Insofar as the submission that the power under Section 17(4) of the Act was exercised in dispensing with enquiry under Section 5-A of the Act is concerned, in a similar case noticed hereinabove, this Court gave liberty to the owners of the land to file representations before the third respondent. It was observed in W.P.No.21976 of 2005, dated 07.10.2005, thus as under.

> The notification was issued on 16.09.2005 for the purpose of construction of Summer Storage Tank. Now that summer is over. The petitioners can be given opportunity to make a representation to raise all other objections before the Land Acquisition Officer, the third respondent herein by filing a representation, within a period of one week from the date of receipt of a copy of this order. As and when such representation is made, the Revenue Divisional Officer may inspect the lands of the petitioners for acquisition, and send a report to the District Collector. This exercise may be completed within a period of one week after receipt of representation. Till then, if the petitioners are in possession, there shall be status quo for a period of two weeks.

Following the same, the petitioners herein are also given liberty to file a representation before the third respondent within a period of one week from the date of receipt of a copy of this order, raising all the objections for acquisition. As and when such representation is filed, within a period of two weeks thereafter, the third respondent shall consider the same and send a report to the District Collector. Till then, if the petitioners are in possession, there shall be status quo for a period of two weeks.

The Writ Petition is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

19.10.2005

vs